



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

NATHEN BARTON,

Plaintiff

v.

DIRECTV LLC

Defendant(s).

CASE NO. 3:21-cv-05423

PLAINTIFF'S FIRST AMENDED
COMPLAINT

TO: CLERK OF COURT

AND TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

Please find Plaintiff's enclosed First Amended Complaint, amended as a matter of course.

DATED: June 8, 2021

/s/ Nathen Barton

Nathen Barton

4618 NW 11th Cir

Camas WA 98607

FarmersBranch2014@gmail.com

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Plaintiff

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DIRECTV LLC

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Case No.: 3:21-cv-05423

FIRST AMENDED COMPLAINT
FOR A CIVIL CASE

Jury Trial: ☒ Yes ☐ No

I. THE PARTIES TO THIS COMPLAINT

A. Plaintiff

Name	Nathen Barton
Street Address	4618 NW 11 th Cir
City and County	Camas, Clark County
State and Zip Code	Washington 98607
Telephone Number	(718) 710-5784

B. Defendant(s)

Defendant No. 1

Name	DirecTv LLC
Job or Title <i>(if known)</i>	
Street Address	2260 E. Imperial Highway
City and County	El Segundo, Los Angeles County
State and Zip Code	CA, 90245

Telephone Number (800) 531-5000

II. BASIS FOR JURISDICTION

Plaintiff Nathen Barton is a natural person and full-time resident of Clark County, Washington. All the acts alleged in this complaint occurred in Clark County, Washington State, during the year 2021.

Jurisdiction in this court is correct because of where Plaintiff resides, his residence is a nexus where Plaintiff suffered personal injury and invasion of privacy at the hands of the Defendant, and Plaintiff is suing in part under federal statute the Telephone Consumer Protection Act of 1991, known as the TCPA, giving rise to a lawsuit that may be brought in Federal Court pursuant to *Mims v. Arrow Fin. Services, LLC*.

III. STATEMENT OF CLAIM

Plaintiff has no established business relationship with DirecTV LLC nor has ever done business with DirecTV LLC.

Plaintiff's cell number (718) 710 5784 ("5784") has been registered on the Federal Trade Commission national do-not-call registry www.donotcall.gov more than 31 days prior to February 15, 2021. His (718) 710 5784 cell phone service plan is limited – any phone calls or texts to that cell number diminish the remaining talk time, data transfer, and text messages the cell phone may receive during that billing period.

Plaintiff uses his cell phone with phone number (718) 710 5784 as a residential telephone subscriber. Specifically, he obtained this phone and phone number to use in his individual capacity for non-commercial judicial branch advocacy and it is a Protected Computer as it is used in a manner that affects interstate or foreign commerce or communication.

1 On or about 1:53PM, February 15, 2021, Plaintiff missed a phone call from (844) 564
 2 1350. Plaintiff called back that same telephone number on the same day and reached "DirecTV
 3 AT&T" according to the automated voice that answered the phone. Plaintiff stayed on the line,
 4 and after waiting two minutes and 10 seconds, reached a company representative, and asked to
 5 be taken off the company's calling list. The representative said: "Sure sir, I'll go ahead and add
 6 your number in the do not call list so you won't receiving [sic] any more calls from our side".

7 Plaintiff believes that the 'DirecTV' in the call is DirecTV LLC ("DirecTV") with
 8 Washington State UBI number 602 592 221, and attorney Kyle J. Steinmetz representing AT&T
 9 Inc ("AT&T") and DirecTV attested that DirecTV is the correct defendant in this lawsuit.

10 Plaintiff went on to receive 10 more calls from DirecTV, for a total of 11 telephone calls
 11 received for the purposes of solicitation. Each telephone call was placed using an automated
 12 dialing and announcing device and speaking with an artificial or prerecorded voice. Each
 13 telephone call was for the purpose of soliciting services from DirecTV. The additional ten
 14 telephone calls received were from the telephone numbers listed at the times listed:

- 15 1 (855) 479 0427, received on February 22, at or about 10:19AM
- 16 2 (833) 308 2053, received on March 2, at or about 4:27PM
- 17 3 (888) 496 1104, received on March 11, at or about 9:07PM
- 18 4 (844) 288 3291, received on March 12, at or about 7:17AM
- 19 5 (855) 729 2893, received on March 17, at or about 10:05AM
- 20 6 (888) 504 0675, received on March 23, at or about 12:53PM
- 21 7 (844) 566 8454, received on March 24, at or about 12:53PM
- 22 8 (855) 486 6192, received on March 25, at or about 10:46AM
- 23 9 (877) 372 0875, received on March 26, at or about 10:11AM
- 24 10 (877) 329 2645, received on March 31, at or about 1:59PM

On March 17, at 11:19AM, Plaintiff called back (855) 729 2893, reached a DirecTV
 customer service representative, and asked "Can you put us on your do not call list?" The man

1 replied "Alright sir, no problem, I really do apologize for this inconvenience, and if you do not
2 want any more calls from AT&T DirecTV I will put you on the do not call list".

3 On March 25, at 11:06PM, Plaintiff called back (855) 486 6192, reached a DirecTV
4 customer service representative, and asked "Can you put us on your do not call list?" The man
5 replied "sure" and hung up.

6 Plaintiff asked DirecTV three times to be put on their do not call list. Plaintiff does not
7 have any relationship with DirecTV or AT&T by which they could legally solicit Plaintiff for
8 any reason.

9 On information or belief, DirecTV is not registered as a telemarketer with the
10 Washington State Department of Licensing.

11 **IV. RELIEF**

12 The Defendant placed or caused to be placed 11 solicitation calls to Plaintiff's cell phone
13 with phone number (718) 710 5784.

14 Defendant violated the TCPA 47 U.S.C. 227(c)(5) by soliciting Plaintiff 11 times on his
15 cell phone while he was registered on the FTC do-not-call list.

16 Defendant violated the TCPA 47 U.S.C. 227(b) by soliciting Plaintiff six times on his cell
17 phone using an artificial or prerecorded voice.

18 Defendant violated Telemarketing Sales Rule §310.4(b)(iii)(A) and §310.4(b)(iii)(B) by
19 11 times by placing solicitation phone calls to Plaintiff while he was registered on the FTC do-
20 not-call list, and after Plaintiff specifically asked DirecTV to stop calling Plaintiff.

21 Defendants violated Telemarketing Sales Rule §310.4(c) one time by placing solicitation
22 phone calls to Plaintiff after 9PM and before 8AM in the Pacific Time Zone.

23 Defendants violated Washington State RCW 80.36.400(2) by using an automatic dialing
24 and announcing device six times to commercially solicit Plaintiff.

1 Defendants violated Washington State RCW 80.36.390(3) 10 times by continuing to
2 make additional telephone solicitations to Plaintiff after Plaintiff told DirecTV during telephone
3 contact to remove Plaintiff from Defendant's call lists.

4 Defendants violated Washington State RCW 19.158.040 one time by placing a
5 solicitation phone call to Plaintiff after 9PM and before 8AM in the Pacific Time Zone.

6 Defendants violated Washington State RCW 19.158.150 11 times by soliciting Plaintiff
7 on his cell phone while they were not registered on with the Washington State department of
8 Licensing, or while working on behalf of an unregistered commercial telephone solicitor.

9 Washington State RCW 80.36.390(3) says

10 If, at any time during the telephone contact, the called party states or indicates that
11 he or she does not wish to be called again by the company or organization or
12 wants to have his or her name and telephone number removed from the telephone
13 lists used by the company or organization making the telephone solicitation, then:
(a) The company or organization shall not make any additional telephone
14 solicitation of the called party at that telephone number within a period of at least
15 one year;

16 Plaintiff believes that his February 15, 2021 DNC request is sufficient to trigger
17 protection under RCW 80.36.390(3) for the 10 solicitation calls placed to Plaintiff after February
18 15, 2021.

19 Washington State RCW 19.158.110(2) says:

20 If at any time during the telephone contact, the purchaser states or indicates that
21 he or she does not wish to be called again by the commercial telephone solicitor
22 or wants to have his or her name and individual telephone number removed from
23 the telephone lists used by the commercial telephone solicitor:
(a) The commercial telephone solicitor shall not make any additional commercial
24 telephone solicitation of the called party at that telephone number within a period
of at least one year;

1 Plaintiff believes that his February 15, 2021 DNC request is sufficient to trigger
 2 protection under RCW 19.158.110(2) for the 10 solicitation calls placed to Plaintiff after
 3 February 15, 2021.

4 Plaintiff asks for treble damages under TCPA 47 U.S.C. 227(c)(5) and TCPA 47 U.S.C.
 5 227(b)(3), and the presumption that violations of Washington State RCW 19.158 and RCW
 6 80.36.400 triple damages under the Washington State Unfair Business Practices Act.

7 Plaintiff prays for all possible damages, in law and in equity, statutory, real, and punitive,
 8 that he might be entitled too. These damages include but are not limited to court costs and
 9 attorney fees.

10 V. CERTIFICATION AND CLOSING

11 Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my
 12 knowledge, information, and belief that this complaint: (1) is not being presented for an improper
 13 purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
 14 (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or
 15 reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so
 16 identified, will likely have evidentiary support after a reasonable opportunity for further
 17 investigation or discovery; and (4) the complaint otherwise complies with the requirements of
 18 Rule 11.

19 I agree to provide the Clerk's Office with any changes to my address where case-related
 20 papers may be served. I understand that my failure to keep a current address on file with the
 21 Clerk's Office may result in the dismissal of my case.

22 Date of signing:

6/8/2021

23 Signature of Plaintiff



24 Printed Name of Plaintiff

Nathan Barton

F

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WESTERN DISTRICT OF WASHINGTON AT TACOMA
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